

TRIBAL GOVERNMENT-TO-GOVERNMENT ENGAGEMENT GUIDE ON THE HEAL ACT

AGENCY TRIBAL LIAISONS DRAFT November 2022

This document serves as a guide to ensuring that the Healthy Environment for All (HEAL) Act's intention for **government-to-government** engagement is done effectively and appropriately. For engagement with Native American communities, see the guide on NATIVE AMERICAN COMMUNITY ENGAGEMENT GUIDE ON THE HEAL ACT.

HEAL ACT BACKGROUND

The HEAL Act was signed into law to reduce environmental and health disparities throughout Washington state and improve the health of all Washington state residents. The Washington State Legislature passed Senate Bill 5141, [HEAL Act](#), to be effective on July 25, 2021.

The HEAL Act defines Environmental Justice (EJ) as “...*the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, rules, and policies. Environmental Justice includes addressing disproportionate environmental and health impacts in all laws, rules, and policies with environmental impacts by prioritizing vulnerable populations and overburdened communities, the equitable distribution of resources and benefits, and eliminating harm.*”¹

Key priorities of the HEAL Act include reducing exposure to environmental hazards within tribal lands, ensuring tribal sovereignty and rights in EJ, and eliminating environmental and health disparities in disadvantaged, vulnerable, and low-income populations.

PRINCIPLES OF TRIBAL ENGAGEMENT

In addition to principles identified by the HEAL Act Environmental Justice Council, engagement with tribal governments should be guided by the following principles:

1. **[INSERT AGENCY NAME HERE]** recognizes tribal nations as unique, distinct sovereign peoples with inherent rights and connections to Washington state territories. The agency acknowledges its government-to-government duties and will prioritize consultation with federally recognized tribes.
2. **[INSERT AGENCY NAME HERE]** works to understand definitions of human health and the environment from the perspective of federally recognized tribes.
3. **[INSERT AGENCY NAME HERE]** uses legal authorities, as appropriate, to advance environmental justice goals in its work throughout the state, including in Indian Country.

¹ Engrossed Second Substitute Senate Bill 5141, Chapter 314, Laws of 2021, Section 2(8), Pp.2.

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4. **[INSERT AGENCY NAME HERE]** strives to understand cultural and communication differences of federally recognized tribes and to establish common understandings of, and opportunities to address environmental justice issues.
5. **[INSERT AGENCY NAME HERE]** encourages, as appropriate and to the extent practicable and permitted by law, any voluntarily shared knowledge and history by tribal governments or peoples, in addition to the agency's environmental science, policy, and decision-making processes, to understand and address environmental justice concerns and facilitate program implementation.
6. **[INSERT AGENCY NAME HERE]** considers confidentiality concerns regarding information on sacred sites, cultural resources, and other traditional knowledge and history, as permitted by law.
7. **[INSERT AGENCY NAME HERE]** acknowledges that unique significant relationships may exist regarding sacred sites and cultural resources information for federally recognized tribes.
8. **[INSERT AGENCY NAME HERE]** Tribes have reserved rights protected by federal, treaty, statute, or executive order on lands and resources that exist far outside of their reservation boundaries. Tribes attach religious, spiritual, and cultural significance to sites that are associated with their ancestral lands, territories, and history well outside of reservation lands.
9. **[INSERT AGENCY NAME HERE]** recognizes the right of the tribal governments to self-determination and acknowledges the federal government's trust responsibility to federally recognized tribes, based on the U. S. Constitution, treaties, statutes, executive orders, and court decisions.
10. **[INSERT AGENCY NAME HERE]** seeks to maintain relationships with tribal governments based mutual understanding and respect.
11. **[INSERT AGENCY NAME HERE]** strives for open communication and meaningful involvement with tribal governments and encourages an appropriate level of involvement by other state, federal and nonfederal government agencies in matters in which the agency is involved.
12. **[INSERT AGENCY NAME HERE]** strives to identify key points of contact in tribal governments to facilitate meaningful involvement and fair treatment on environmental justice issues, and to better understand the unique aspects and nature of the tribes' communities.
13. **[INSERT AGENCY NAME HERE]** recognizes and supports the use of federal and tribal conflict management and dispute resolution processes, including traditional consensus building and decision-making practices, as appropriate, to address disputes and potential conflicts.
14. **[INSERT AGENCY NAME HERE]** encourages and seeks to facilitate discussions among and between government entities with an interest in environmental justice issues affecting federally recognized tribes.
15. **[INSERT AGENCY NAME HERE]** collaborates and cooperates with other state and federal agencies to leverage resources to better communicate, share information, and address the environmental justice concerns of federally recognized tribes.

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CONSULTATION WITH TRIBAL GOVERNMENTS

Federally recognized tribes are individually and culturally unique from each other. Their inherent rights originate back to the beginning of their creation and are rooted in their ancestral cultures. Washington State recognizes tribes' inherent rights to exercise their language, cultural beliefs, protection of tribal resources, sense of place and territory through their existence and inhabitation of Washington territory since time immemorial. Inherent rights means the birth-right of a people instilled in them since the time of creation. These rights are embedded in their right to their language, teachings, culture, territories of land and water, history of stewardship and service, and fiduciary obligation to preserve those rights for future generations

Federally recognized tribes retain their inherent rights and are, as such, sovereign and operate their own tribal governments to govern their tribal citizenship and reservation populations through self-governance and self-determination. Federally recognized tribes have a unique trust relationship with the United States federal government based on the U. S. Constitution, treaties, statutes, executive orders, and court decisions. Their status as sovereign nations entitles them to a direct government-to-government relationship with the federal government, independent of the states or local jurisdictions where these tribes may reside.

Agencies in Washington State are also guided by laws, policies and agreements related to tribal consultation. Engagement on environmental justice issues should also be consistent with the [1989 Centennial Accord](#), [1999 Millennium Agreement](#) and [Chapter 43.376](#).

[INSERT AGENCY NAME HERE] is committed to consulting with tribal governments on issues that affect their rights and interests. Government-to-government consultation occurs preemptively, independently, and parallel to any public involvement process.

[INSERT AGENCY NAME HERE] maintains a government-to-government relationship with all 29 federally recognized tribes located within Washington.

[INSERT AGENCY NAME HERE] engages with tribes consistent with our agency's Centennial Accord Plan and our tribal consultation policies and protocols. These policies and protocols guide employees on how and when to consult with tribes. The specific policies and protocols include: **[INSERT AGENCY SPECIFIC POLICIES, PROCEDURES, PROTOCOLS, AND ORDERS HERE]**.

All **[INSERT AGENCY NAME HERE]** policies are available online at **[INSERT LINK HERE]**.

[INSERT AGENCY NAME HERE] staff should identify tribes' cultural concerns, community needs and related plans, projects, and outreach early in the engagement process through communication, collaboration, and meaningful consultation.

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Consultation with tribal governments should be initiated at the beginning of a project, plan or service development and continue throughout project development and delivery.

Guidance from the agency's Tribal Liaison should be sought in developing relationships with tribes' leaders.

METHODS FOR TRIBAL GOVERNMENT ENGAGEMENT

- Seek to understand what a tribe considers meaningful consultation (e.g. holding consultations on tribal land).
- Distribute project documents for tribal review and comments.
- Engage in frequent technical and policy level discussions on project elements and report findings.
- Individual meetings between the agency leaders and tribal chairs and councils
- Coordinate with tribal representatives to provide community engagement and outreach opportunities.
- Participate in intertribal meetings with tribal leadership and technical staff.
- Invite tribal representatives to serve on committees convened to advise an agency on the development or administration of plan, program, project (executive and technical), or to make funding decisions (grant selection committee).

WORKING WITH CITIZENS OF CONSULTING TRIBES

Tribal citizens engagement should always be coordinated through the tribal government.

If your plan, project, or service is located on or near tribal lands, it may be appropriate to conduct direct outreach to a tribe's citizens. Tribal citizens engagement can help raise awareness of projects / programs, identify needs and concerns, and help ensure the best outcomes for the tribal citizens from their perspective.

METHODS FOR TRIBAL CITIZEN ENGAGEMENT

Work with the tribal government infrastructure to identify how to appropriately distribute documents for community review and comments. Some ideas for engagement strategies are:

- Host community open house at a tribal location, such as a community center.
- Distribute information via tribal newsletters, newspapers, or social media sites.
- Sponsor a table / booth at a tribal event, such as a powwow, sports tournament, and/or canoe journey etc.